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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,011	10/28/2003	Vaughn L. Bauer	2-5751-001	4258
803	7590	01/04/2006	EXAMINER	
STURM & FIX LLP 206 SIXTH AVENUE SUITE 1213 DES MOINES, IA 50309-4076			PECHHOLD, ALEXANDRA K	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/695,011	BAUER, VAUGHN L.	
	Examiner	Art Unit	
	Alexandra K. Pechhold	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 2, 11, 12, and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Staal et al (US 6,109,012).**

Regarding claim 1, Staal discloses a method of providing a forwardly folding toolbar for a farm implement, the toolbar being operably connected to the tongue (seen as frame beam 2 in Fig. 1), the method comprising:

- (a) operably attaching a center section (seen as frame beam 4 in Fig. 1) to the tongue of the toolbar at a substantially right angle (as shown in Fig. 1),
- (b) operably pivotally attaching an inner end of an inner wing section (seen as common frame beam portions 31, 31 in Fig. 1), to each end of the center section (the pivotal connection seen as hinge connections 34, see Col 3, lines 45-47 and 55-61);
- (c) operably pivotally attaching an inner end of an outer wing section (seen as frame beam portions 32 in Fig. 1) to an outer end of each inner wing section (the hinged connection by means of intermediate beam portion 33, see Col 3, lines 43-53);

Art Unit: 3671

(d) rotating both wing sections at pivot points (seen as 34, 34) located on the center section to bring outer ends of the wing sections forward until the wing sections lie substantially parallel to the tongue (see Fig. 1 phantom lines and Col 3, lines 55-61).

Regarding claims 2 and 12, Staal discloses supporting the center section with ground engaging wheels (seen as wheels 37 in Fig. 1).

Regarding claim 11, Staal discloses an implement toolbar that is forwardly folding comprising:

- (a) a tongue (seen as frame beam 2) having a forward end and a rearward end;
- (b) a center section (seen as frame beam 3) operably attached to the tongue at a substantially right angle;
- (c) inner wing sections (seen as common frame beam portions 31, 31 in Fig. 1), operably pivotally attached at inner ends of the inner wing sections to each end of the center section (the pivotal connection seen as hinge connections 34, see Col 3, lines 45-47 and 55-61);
- (d) outer wing sections (seen as frame beam portions 32 in Fig. 1) operably pivotally attached at inner ends of the outer wing sections to an outer end of each inner wing section (the hinged connection by means of intermediate beam portion 33, see Col 3, lines 43-53);
- (e) folding means for rotating both wing sections at pivot points located on the center section to bring outer ends of the wing sections toward the forward end of the tongue until the wing sections lie substantially parallel to the tongue (see Fig. 1 phantom lines and Col 3, lines 55-61).

Art Unit: 3671

Regarding claim 19, Staal discloses an implement toolbar that is horizontally folding comprising;

- (a) a tongue (seen as frame beam 2);
- (b) more than three sections comprising a center section (seen as frame beam 3) having two ends and at least three wing sections (seen as the section formed by frame beam portion 32, the section formed by cylinder 35, and the section formed by common frame beam portion 31), each operably pivotally attached end to end (see Fig. 1), all the sections lying substantially linearly from each end of the center section to an outer end of the wing sections (as seen in Fig. 1); and
- (c) folding means (seen as hinge 34 and cylinder 36) for rotating the at least three wing section at pivot points located on the center section to bring outer ends of the at least three wing sections forward until the at least three wing sections lie substantially parallel to the tongue and substantially linearly from each pivot point located on the center section to a forward end of the wing sections (see Fig. 1 phantom lines and Col 3, lines 55-61).

Regarding claim 20, Fig. 1 illustrates the toolbar as forwardly folding (see phantom lines).

Regarding claim 21, Fig. 1 illustrates a forward end of the tongue (seen as frame beam 2) attached to a rear end of a prime mover.

Regarding claim 22, Fig. 1 illustrates a hitch disposed on a forward end of the tongue (seen as frame beam 2), the hitch being capable of being attached to a rear end of a prime mover.

Art Unit: 3671

Regarding claim 23, Fig. 1 illustrates attaching a forward end of the tongue (seen as frame beam 2) to a tractor capable of towing the implement forwardly.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 3, 4, 5, 6, 7, 8, 13, 14, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staal et al (US 6,109,012) as applied to claim 1 above, and further in view of Vincent (US 3,880,241).**

Regarding claims 3 and 13, Staal fails to disclose ground engaging wheels on each of the wing sections. Staal does disclose pivot points between each of the wing sections (seen as hinged connections 33, 33 and hinge connections 34, 34 in Fig. 1). Staal just discloses ground engaging wheels on the center section (seen as wheels 37). Vincent teaches utilizing wheels under each section of a multi-section agricultural frame (see wheels 28, 28, 32 in Fig. 1), in order to support the entire implement including the central section (14) and the wing section (16) when the sections are in the work performing position (Col 3, lines 35-40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Staal to include ground

Art Unit: 3671

engaging wheels on the inner wing section and outer wing section as taught by Vincent, since Vincent states in column 3, lines 35-40 that the wheels (28, 32) support the entire implement including the central section (14) and the wing section (16) when the sections are in the work performing position.

Regarding claims 4 and 14, Staal fails to disclose supporting ends of the outer sections with ground engaging wheels at each extreme end of the outer wing sections. Staal just discloses ground engaging wheels on the center section (seen as wheels 37). Vincent teaches utilizing wheels under each section of a multi-section agricultural frame (see wheels 28, 28, 32 in Fig. 1), in order to support the entire implement including the central section (14) and the wing section (16) when the sections are in the work performing position (Col 3, lines 35-40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Staal to include supporting ends of the outer sections with ground engaging wheels at each extreme end of the outer wing sections as taught by Vincent, since Vincent states in column 3, lines 35-40 that the wheels (28, 32) support the entire implement including the central section (14) and the wing section (16) when the sections are in the work performing position.

Regarding claims 5 and 6, Staal discloses raising the frame beam portions (32) using the hydraulic piston and cylinder units (35) so that the portion (32) pivots over the common frame beam portion (31) before the hinges (34) and cylinders (36) is used to pivot the wings sections inward toward the frame beam (2) (see Col 3, lines 48-61).

Regarding claims 7 and 8, Staal fails to disclose the step of lowering the pivot points between each of the wing sections relative to the wheels with the actuators therebetween when the wing sections lie parallel to the tongue, or the step of lowering the extreme end of each of the wing sections relative to the ground engaging wheels with the actuators therebetween when the wing sections lie parallel to the tongue. But Staal does disclose a pivotal connection (33) so that the frame beam portions (32) can pivot upwards and downwards. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Staal to include the step of lowering the pivot points between each of the wing sections relative to the wheels with the actuators therebetween when the wing sections lie parallel to the tongue, or the step of lowering the extreme end of each of the wing sections relative to the ground engaging wheels with the actuators therebetween when the wing sections lie parallel to the tongue, since the wing sections of Staal are capable of being pivoted relative to the wheels, and therefore this step is capable of taking place when the wing sections lie parallel to the tongue.

Regarding claims 15 and 16, Staal discloses raising the frame beam portions (32) using the hydraulic piston and cylinder units (35) so that the portion (32) pivots over the common frame beam portion (31) and using cylinders (36) and hinges (34) to pivot the wings sections inward toward the frame beam (2) (see Col 3, lines 48-61).

5. Claims 9, 10, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staal et al (US 6,109,012) and Vincent (US 3,880,241) as

Art Unit: 3671

applied to claims 7, 8, 15, and 16 respectively above, and further in view of Adee (US 4,066,274).

Regarding claims 9 and 10, the combination of Staal and Vincent fails to disclose the step of engaging a latch to the tongue of the toolbar upon lowering the pivot points between each of the wing sections, or the step of engaging a latch to the tongue of the toolbar upon lowering the extreme end of the wing section. Adee teaches using a latch (52) on the tongue (10) adjacent hitch (12) to releasably retain the linkages (40) against the tongue (10), as illustrated best in Fig. 2 (Col 2, lines 22-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Staal having the additional wheels of Vincent to include the step of engaging a latch to the tongue of the toolbar upon lowering the pivot points between each of the wing sections, or the step of engaging a latch to the tongue of the toolbar upon lowering the extreme end of the wing section, as taught by Adee, since Adee states in column 2, lines 22-28 that such a latch is used to releasably retain linkages against the tongue.

Regarding claims 17 and 18, the combination of Staal and Vincent fails to disclose a latch for operably affixing a pivot point between the inner wing section and the outer wing section to the tongue of the toolbar by lowering the pivot point between each of the wing sections after the wing sections lie substantially parallel to the tongue, or a latch for operably affixing an extreme end of the outer wing section to the tongue of the toolbar by lowering the extreme end of the outer wing section after the wing sections lie substantially parallel to the tongue. Adee

Art Unit: 3671

teaches using a latch (52) on the tongue (10) adjacent hitch (12) to releasably retain the linkages (40) against the tongue (10), as illustrated best in Fig. 2 (Col 2, lines 22-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the implement of Staal having the additional wheels of Vincent to additionally comprise a latch for operably affixing a pivot point between the inner wing section and the outer wing section to the tongue of the toolbar by lowering the pivot point between each of the wing sections after the wing sections lie substantially parallel to the tongue, or a latch for operably affixing an extreme end of the outer wing section to the tongue of the toolbar by lowering the extreme end of the outer wing section after the wing sections lie substantially parallel to the tongue, as taught by Adee, since Adee states in column 2, lines 22-28 that such a latch is used to releasably retain linkages against the tongue.

Response to Arguments

6. Applicant's arguments set forth in the Appeal Brief filed 2/17/05, with respect to the rejection of claim using Hornung (US 3,791,673) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new grounds of rejection is made in view of Staal (US 6,109,012). Accordingly, this office action is made non-final in light of the Examiner setting forth a new grounds of rejection.
7. In view of the Appeal Brief filed on 2/17/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

Art Unit: 3671

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

A handwritten signature in black ink, appearing to be "B. H.", is written over the text "has approved of reopening prosecution by signing below:". The signature is stylized with a long horizontal stroke extending to the right.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3671

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (703) 872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
12/21/05